

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB HEWS 13-01 Postsecondary Education

**SPONSOR(S):** Higher Education & Workforce Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE   | ACTION    | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|-----------|---------|--|
| Orig. Comm.: Higher Education & Workforce<br>Subcommittee | 12 Y, 0 N | Brink   | Sherry                                   |

### SUMMARY ANALYSIS

The bill amends provisions of law relating to the State University System (SUS), the Florida College System (FCS), school districts, developmental and general education requirements, adult education, workforce education, and various other provisions. The bill:

- Provides the Board of Governors (BOG) oversight enforcement authority over the SUS and requires the BOG to include in its strategic plan criteria for designating high-demand degree programs of emphasis, which would be tied to performance funding. It also expands the exemption from limitations on bonus and severance pay in state employment contracts to include employees of state universities.
- Revises the purposes, membership, and guiding principles of the Higher Education Coordination Council (HECC) and revises the duties of the Articulation Coordinating Committee and creates the Office of K-20 Articulation to support these entities.
- Establishes academic and research excellence standards for universities to be designated as a preeminent state research university. The bill requires the research university that attains the highest level on the academic and research excellence standards to establish a fully online arm of the university. The bill makes specific provisions relating to operations and tuition for the online arm. The research university that attains the second highest level on the standards shall recruit National Academy Members, expedite provision of a master's degree in cloud virtualization, and institute an entrepreneurs-in-residence program.
- Revises requirements for basic skills instruction for career education programs and revises provisions relating to adult education program priorities. It also amends various provisions relating to developmental education and defines certain associated terminology.
- Provides performance funding for workforce education, FCS institutions, and state universities.
- Authorizes additional postsecondary general education core course options and increases the required number of semester hours of general education coursework.
- Establishes a separate framework, for the purpose of determining residency adult education students. It also grants FCS institution boards of trustees flexibility to set tuition and fees for baccalaureate degree programs at an amount below the rate established by statute or the General Appropriations Act.
- Provides various technical and conforming changes.

The fiscal impact of the bill is indeterminate at this time.

The bill has an effective date of July 1, 2013, except as otherwise provided therein.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Florida Preeminent Universities**

###### *Present Situation*

In 2012, the Legislature passed the State Universities of Academic and Research and National Preeminence Act (Act),<sup>1</sup> a collaborative partnership between the Board of Governors (BOG) and the Legislature to raise the academic and research excellence and national preeminence of the highest performing state research universities in Florida. The partnership was based on the March 24, 2010 State University System (SUS) Governance Agreement that affirmed the commitment of the BOG and the Legislature to continue collaboration on accountability measures, the use of data, and recommendations derived from such data. On April 27, 2012, the Governor vetoed the Act,<sup>2</sup> which had passed the House of Representatives by an 85 to 28 vote and the Senate by a 36 to 3 vote.

Under the Act, a state research university that met specific eligibility requirements was authorized to raise tuition and fees at differentiated and market rates once each academic year. The authority to raise student tuition and fees was contingent upon the BOG verifying that the SUS institution substantially met at least 11 of 14 academic and research excellence standards.

Several nationally recognized entities collect data relating to various aspects of postsecondary education across the United States, including:

###### *Integrated Postsecondary Education Data System (IPEDS)*

IPEDS is a “system of interrelated surveys conducted annually by the U.S. Department of Education’s National Center for Education Statistics (NCES). IPEDS gathers information from every college, university, and technical and vocational institution that participates in the federal student financial aid programs.<sup>3</sup> The Higher Education Act of 1965<sup>4</sup>, as amended, requires institutions that participate in federal student aid programs [to] report data on enrollments, program completions, graduation rates, faculty and staff, finances, institutional prices, and student financial aid. Data from IPEDS are commonly used as the foundation of state and national reports.

###### *The Center for Measuring University Performance*

The Center for Measuring University Performance (Center) is a research enterprise focused on comparative performance of major research universities.<sup>5</sup> The Center publishes an annual report, *The Top American Research Universities* (TARU), which provides analysis and data to assess the performance of research universities based on nine research-specific measures.<sup>6</sup>

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<sup>1</sup> House Bill 7129, 2012 (vetoed by the Governor on April 27, 2012).

<sup>2</sup> Letter from Gov. Rick Scott to Secretary of State Ken Detzner. Apr. 27, 2012.

<sup>3</sup> Integrated Postsecondary Education Data System, About IPEDS, available at <http://nces.ed.gov/ipeds/about/> (last visited Feb. 21, 2013).

<sup>4</sup> The Higher Education Opportunity Act (HEOA) was enacted on August 14, 2008, and reauthorizes the Higher Education Act (HEA) of 1965, as amended. U.S. Department of Education, *Higher Education Opportunity Act-2008*, available at <http://www2.ed.gov/policy/highered/leg/hea08/index.html#ipeds> (last visited Feb. 21, 2013).

<sup>5</sup> The Center for Measuring University Performance, *The Center for Measuring University Performance*, available at <http://mup.asu.edu/index.html> (last visited Feb. 21, 2013).

<sup>6</sup> The Top American Research Universities, *2010 Annual Report*, available at <http://mup.asu.edu/research.html>, (last visited Feb. 21, 2013).

The TARU report includes institutions with a certain level of federal research expenditures.<sup>7</sup> These data are the same or similar to data used by nationally recognized ranking systems.

### *The National Science Foundation (NSF)*

NSF is an independent federal agency created by Congress in 1950 "to promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and for other purposes."<sup>8</sup> NSF ranks institutions based on research and development expenditures in science and engineering fields.<sup>9</sup>

### Effect of Proposed Changes

The bill grants the BOG authority to designate a qualifying institution as a preeminent state research university. The designation does not allow preeminent universities to set tuition and fees beyond current limits established by law.

The academic and research excellence standards established by the bill are as follows:

1. An average weighted grade point average of 4.0 or higher on a 4.0 scale and an average SAT score of 1800 or higher for fall semester incoming freshman, as reported annually.
2. A top 50 ranking on at least two well-known and highly respected national public university rankings, reflecting national preeminence, using most recent rankings.
3. A freshman retention rate of 90 percent or higher for full-time first-time-in-college students, as reported annually to the IPEDS.
4. A 6-year graduation rate of 70 percent or higher for full-time first-time-in-college students, as reported annually to the IPEDS.
5. Six or more faculty members at the state university who are members of a national academy, as reported annually by TARU annual report.
6. Total annual research expenditures, including federal research expenditures, of \$200 million or more, as reported annually by the NSF.
7. Total annual research expenditures in diversified nonmedical sciences of \$150 million or more, as reported annually by the NSF.
8. A top 100 university national ranking for research expenditures in five or more science, technology, engineering, or mathematics fields of study, as reported annually by the NSF.
9. One hundred or more total patents awarded by the United States Patent and Trademark Office for the most recent 3-year period.
10. Four hundred or more doctoral degrees awarded annually, as reported in the TARU annual report.
11. Two hundred or more post-doctoral appointees annually, as reported in the TARU annual report.
12. An endowment of \$500 million or more, as reported annually by the BOG annual accountability report.

Of the 14 academic and research excellence standards proposed in HB 7129 in 2012, the bill includes 12 identical measures, four of which have increased benchmarks. The BOG must verify that a university has met benchmarks associated with 11 of the 12 measures before it can designate the university as a preeminent state research university.

The state research university that attains the highest level on the academic and research excellence standards, as verified by the BOG, must establish a fully online arm of the university, subject to funds

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<sup>7</sup> The 2011 report used \$40 million as the cutoff for federal research expenditures in fiscal year 2009. The same dollar cutoff was used for fiscal year 2008 federal research expenditures. The Top American Research Universities, *2011 Annual Report*, available at <http://mup.asu.edu/research.html>, (last visited Feb. 21, 2013).

<sup>8</sup> 42 U.S.C.A. s. 1861; *see also* National Science Foundation, *About the National Science Foundation*, available at <http://www.nsf.gov/about/> (last visited Feb. 21, 2013).

<sup>9</sup> National Science Foundation, *Academic Research and Development Expenditures: Fiscal Year 2009*, available at [http://www.nsf.gov/statistics/nsf11313/content.cfm?pub\\_id=4065&id=2](http://www.nsf.gov/statistics/nsf11313/content.cfm?pub_id=4065&id=2) (last visited Feb. 21, 2013).

appropriated by the Legislature. The state research university that attains the second highest level must recruit National Academy Members, expedite provision of a master's degree in cloud virtualization, and institute an entrepreneurs-in-residence program throughout its campus, subject to funds appropriated by the Legislature.

The bill also establishes the Preeminent State University Special Course Requirements Authority, under which any preeminent state research university may require its incoming first-time-in-college students to take a 9-to-12 credit set of courses specifically determined by the university. The university may stipulate that credit for such courses may not be earned through any acceleration mechanism pursuant to ss. 1007.27 or 1007.271, F.S. or other transfer credit. Any accelerated credits earned up to the limits specified in ss. 1007.27 and 1007.271, F.S. must be applied toward graduation at the student's request.

The BOG must identify and grant all reasonable feasible authority and flexibility to keep designated preeminent universities free from unnecessary restrictions. The bill also encourages the BOG to identify individual programs within state universities that objectively reflect national excellence. The BOG is encouraged to make recommendations to the Legislature as to how any such programs could be enhanced and promoted.

## **State University System Online Education**

### *Present Situation*

Currently, 10 of Florida's 12 state universities offer online courses and online degree programs.<sup>10</sup> Each institution has its own, independent online strategy, with its own marketing, course design, instruction, support services, and IT capabilities. Systemwide, state universities offer a total of 389 online programs for undergraduate and graduate certificates, bachelor's degrees, master's degrees, and doctorate degrees.<sup>11</sup> Of the 389 online programs currently offered by state universities, only 46 are baccalaureate programs.<sup>12</sup> The majority of these consist of only upper-division courses.

In 2012, the Parthenon Group conducted a survey of online postsecondary education in Florida and identified four primary objectives for postsecondary online learning:<sup>13</sup>

- Expanding access;
- Reducing system and student costs;
- Strengthening the link between the labor market and postsecondary education; and
- Enhancing the student experience.

### *Effect of Proposed Changes*

The bill provides that the state university that has attained the highest level on the academic and research standards for preeminence ("university" for purposes of this segment of the bill analysis) must establish a fully online arm of the university, subject to funds appropriated by the Legislature. It also creates a board of directors, which must develop, implement, and oversee the business aspects of the university's online arm. The university president and board of trustees, in conjunction with the BOG, will be responsible for the academic quality, accreditation, and curricular standards of the online arm.

The board of directors for the online arm of the university is comprised of the following:

- The university president, or the president's permanent designee;

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<sup>10</sup> The Parthenon Group, *Summary: Post-Secondary Online Expansion in Florida*, at 5 (Nov. 7, 2012). SUS institutions that do not offer online courses or degree programs include Florida Polytechnic University and New College of Florida. The figures presented within the Parthenon Group's Summary are based on a 2010-2011 headcount.

<sup>11</sup> The Parthenon Group, *Summary: Post-Secondary Online Expansion in Florida*, at 68 (Nov. 7, 2012).

<sup>12</sup> *Id.*

<sup>13</sup> The Parthenon Group, *Summary: Post-Secondary Online Expansion in Florida*, at 6 (Nov. 7, 2012).

- The chair of the university board of trustees, or the chair's permanent designee;
- A member with expertise in global marketing, appointed by the Governor;
- A member with expertise in cloud virtualization, appointed by the President of the Senate;
- A member with expertise in disruptive innovation in online learning, appointed by the Speaker of the House of Representatives.
- A member with expertise in online program accreditation, appointed by the Chair of the Board of Governors; and
- A member with expertise in creative technologies, appointed by the Chair of the Polytechnic University Board of Trustees.

The board of directors must develop a business plan and may contract with other entities and institutions, public or private, to maximize the marketing, advertising, support services that include financial aid assistance and academic and career guidance, and degree programs and courses of the university's online arm.

The bill requires that the university offer high-quality, fully online bachelor's degree programs, as directed by the board of directors, starting in January 2014. The programs must:

- Accept full-time, first-in-time-in-college students;
- Have the same rigorous admissions criteria as an equivalent on-campus degree program;
- Offer a curriculum of equivalent rigor to on-campus degree programs;
- Offer rolling enrollment or multiple windows of enrollment throughout the year;
- Not require any on-campus courses;<sup>14</sup> and
- Apply the university's existing policy for accepting credits for both freshman applicants and transfer applicants.

The university must offer as part of its online arm a fully online Masters in Business Administration degree program. It may also offer other master's degree programs as recommended by the president and board of trustees and authorized by the board of directors.

The university is authorized to develop and offer degree programs and courses that are competency based pursuant to the recommendation of the president and board of trustees and authorization by the board of directors. To meet market and student demands, the university must periodically expand its offering of online bachelor degree programs as recommended by the president and board of trustees and as authorized by the board of directors.

With respect to tuition, the university must establish a structure for its online arm in conjunction with the board of directors and in accordance with the following provisions:

- For Florida residents, tuition for any online baccalaureate degree program may not exceed 75 percent of the combined tuition and tuition differential for the equivalent on-campus baccalaureate degree program.
- For non-Florida residents, tuition may be set at market rates as directed and authorized by the board of directors in accordance with the business plan.
- Tuition for the online program must include all costs associated with the program, including but not limited to instruction, materials, not including textbooks or lab equipment, and enrollment.
- Tuition may be differentiated by degree program as appropriate to the instructional and other costs of the program, as recommended by the president and the board of trustees, and as authorized by the board of directors in accordance with the business plan.

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<sup>14</sup> For courses or programs that require clinical training or laboratories that cannot be delivered online, the university shall offer convenient locational options to the student, which may include but not be limited to the option to complete such requirements at a summer-in-residence on the university campus; additionally, for purposes of proctored assessments or testing, the university may provide a network of sites at convenient locations and may contract with commercial testing centers or identify other secure testing services.

- Pricing must incorporate innovative approaches that incentivize persistence and completion, including but not limited to fees for assessment, bundled or all-inclusive rates, and sliding scale features.
- The online arm of the university must accept advance payment contracts and student financial aid.
- The board of directors shall ensure that 50 percent of the net revenues generated from the online arm of the university are used to enhance and enrich the online program offerings, and the other 50 percent of the net revenues are used to enhance and enrich the university's state-of-the-art research programs and facilities.

## Oversight of Florida College System and State University System

### Present Situation

#### *Florida College System*

The Florida College System (FCS) is the state's system of regionally-based public two- and four-year colleges.<sup>15</sup> The FCS is comprised of 28 public postsecondary institutions located at 181 sites statewide.<sup>16</sup> Each FCS institution is assigned a service area comprised of one or more counties.<sup>17</sup>

The State Board of Education (SBE) provides state-level governance of the FCS, with agency oversight provided by the Department of Education's (DOE) Division of Florida Colleges.<sup>18</sup> Each FCS institution is governed locally by a board of trustees.<sup>19</sup> Individual trustees are appointed by the Governor and confirmed by the Florida Senate.<sup>20</sup> Local boards of trustees must govern their institutions in accordance with state law and state board rules.<sup>21</sup>

As part of its oversight authority over the Florida College System, the SBE has authority to request and receive information, data, and reports from individual FCS institutions.<sup>22</sup> Further, the Commissioner of Education may investigate allegations of noncompliance with law or state board rule and determine probable cause, reporting determinations of probable cause to the SBE.<sup>23</sup>

Once a determination of probable cause for violation of law or rule is reported to the SBE, the SBE must require the FCS institution's board of trustees to document compliance with the law or rule.<sup>24</sup> If the board of trustees cannot satisfactorily document compliance, the SBE may order compliance within a specified timeframe.<sup>25</sup>

<sup>15</sup> Part III, ch. 1001, F.S.; Part III, ch. 1004, F.S.; see ch. 2009-228, L.O.F. FCS institutions were first known as "junior colleges." Today, FCS institutions may use one of four name designations - junior college, community college, college, or, if the FCS institution offers baccalaureate degrees, state college. Sections 1000.21(3), 1001.60(2)(b), and 1004.66, F.S.

<sup>16</sup> Sections 1000.21(3) and 1001.60(2), F.S.; Florida Department of Education, *Florida Colleges: Facts at a Glance*, [http://www.fldoe.org/cc/facts\\_glance.asp](http://www.fldoe.org/cc/facts_glance.asp) (last visited February 15, 2013). The origins of the FCS date back to 1933, when Palm Beach Junior College became Florida's first public two-year college. Palm Beach State College, *History of Palm Beach State College*, <http://www.palmbeachstate.edu/history> (last visited February 15, 2013).

<sup>17</sup> Sections 1000.21(3) and 1004.65(2)(a), F.S.

<sup>18</sup> Sections 20.15(3)(a) and 1001.02(1) and (4), F.S.

<sup>19</sup> Sections 1001.60(3), 1001.61(1), and 1004.65(1), F.S. FCS institutions are statutorily designated as political subdivisions of the state. Sections 1004.65(3) and 1004.67, F.S.

<sup>20</sup> Section 1001.61(2), F.S.

<sup>21</sup> Section 1001.64(1) and (2), F.S. Among other things, each board is authorized to adopt rules, procedures, and policies on such matters as admissions, educational programming, administration, personnel, contracts, grants, and facilities. Section 1001.64(4), F.S.

<sup>22</sup> Section 1008.32(1), F.S. FCS institution presidents are responsible for the accuracy of information and data reported to the SBE.

<sup>23</sup> Section 1008.32(2), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 1008.32(3), F.S.

The SBE may initiate certain actions in the event it determines that a FCS institution board of trustees is unwilling or unable to comply with law or state board rule within the specified timeframe.<sup>26</sup> The actions prescribed by statute include any of the following:<sup>27</sup>

- Reporting to the Legislature that the institution has been unwilling or unable to comply with law or state board rule and recommend action to be taken.
- Reducing the discretionary lottery appropriation until the FCS institution complies with the law or board rule.
- Withholding the transfer of state funds, discretionary grant funds, or any other funds specified as eligible for this purpose by the Legislature until the FCS institution complied with the law or board rule.
- Declaring the FCS institution ineligible for competitive grants.
- Requiring monthly or periodic reporting on the situation related to noncompliance until it is remedied.

In 2007, the Legislature passed CS/CS/SB 1270, which specified the powers and duties of the Board of Governors with respect to governance of the State University System.<sup>28</sup> Accordingly, the legislation excluded the State University System from the SBE's oversight enforcement authority under Section 1008.32, F.S.<sup>29</sup> There currently is no similar oversight structure for the SUS prescribed by statute.

### *State University System*

The State University System (SUS) provides students with undergraduate and graduate level instruction leading to baccalaureate, masters, doctoral, and professional degrees. SUS institutions also conduct research and engage in public service.<sup>30</sup> The SUS is comprised of the following 12 institutions:

- The Florida Agricultural and Mechanical University
- The Florida Atlantic University
- The Florida Gulf Coast University
- The Florida International University
- The Florida Polytechnic University
- The Florida State University
- New College of Florida
- The University of Central Florida
- The University of Florida
- The University of North Florida
- The University of South Florida
- The University of West Florida<sup>31</sup>

As set forth in the Florida Constitution, state-level governance of the SUS is provided by the Board of Governors (BOG) and Legislature.<sup>32</sup> The BOG is comprised of 17 members – the Commissioner of Education, the chair of the Advisory Council of Faculty Senates (or the equivalent), the Florida Student Association president, and 14 citizen appointments by the Governor. Governor appointees must be confirmed by the Florida Senate.<sup>33</sup>

Each institution in the SUS is governed locally by a board of trustees<sup>34</sup> comprised of 13 members – the chair of the faculty senate or the equivalent, the president of the student body of that institution, six

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<sup>26</sup> Section 1008.32(4), F.S.

<sup>27</sup> Section 1008.32(4)(a)-(e), F.S.

<sup>28</sup> Section 76, ch. 2007-217, L.O.F.

<sup>29</sup> Section 125, ch. 2012-217, L.O.F.; staff of the Florida Senate, *Legislative Bill Analysis for SB 1270* (2007).

<sup>30</sup> Art. IX, s. 7, Fla. Const.; part IV, ch. 1001, F.S.; part II, ch. 1004, F.S.

<sup>31</sup> Section 1000.21(6), F.S.

<sup>32</sup> Art. IX, s. 7(d), Fla. Const.; s. 1001.71(2) and (3), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> Art. IX, s. 7(c), Fla. Const.; s. 1001.71(1), F.S.

members appointed by the Governor, and five members appointed by the BOG. The members appointed by the Governor and the BOG must be confirmed by the Florida Senate.<sup>35</sup> The local boards of trustees must govern their institutions in accordance with BOG rules and regulations.<sup>36</sup> Each local board's responsibilities include, but are not limited to, strategic planning and adopting policies regarding admissions, educational programming, administration, personnel, contracts, grants, and facilities.<sup>37</sup>

The BOG is the constitutionally created body required to "operate, regulate, control, and be fully responsible for the management of the whole university system."<sup>38</sup> The BOG, or the BOG's designee, has responsibility for:<sup>39</sup>

- Defining the distinctive mission of each SUS institution.
- Defining the articulation of each SUS institution in conjunction with the Legislature's authority over the public schools and the FCS institutions.
- Ensuring the well-planned coordination and operation of the SUS.
- Avoiding wasteful duplication of facilities or programs within the SUS.
- Accounting for expenditure of funds appropriated by the Legislature for the SUS as provided by law.
- Submitting a budget request for legislative appropriations for the institutions under the supervision of the BOG as provided by law.
- Adopting strategic plans for the SUS and each SUS institution.
- Approving, reviewing, and terminating degree programs of the SUS.
- Governing admissions to the SUS institutions.
- Serving as the public employer to all public employees of the state universities for collective bargaining purposes.
- Establishing a personnel system for SUS institutions' employees.<sup>40</sup>
- Complying with and enforcing for institutions under the BOG's jurisdiction, all applicable local, state, and federal laws.

The BOG's oversight of the SUS is subject to the Legislature's power to appropriate funds, as well as the Legislature's responsibility to provide for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.<sup>41</sup>

### *Legislature*

With regard to the SUS, the Legislature is responsible for:<sup>42</sup>

- Making provision by law for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.
- Appropriating state funds for the SUS through the General Appropriations Act or other law.
- Establishing tuition and fees.
- Establishing policies relating to merit- and need-based student financial aid.
- Establishing policies relating to the expenditure of, accountability for, and management of funds appropriated by the Legislature or revenues authorized by the Legislature, including but not limited to, policies relating to: budgeting; deposit of funds; investments; accounting; purchasing,

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<sup>35</sup> Section 1001.71(1), F.S.

<sup>36</sup> Art. IX, s. 7(c), Fla. Const.; *see also* Florida Board of Governors Regulation 1.001 (Feb. 16, 2012).

<sup>37</sup> Florida Board of Governors Regulation 1.001(3)-(7).

<sup>38</sup> Art. IX, s. 7(d), Fla. Const.

<sup>39</sup> Section 1001.705(2), F.S.

<sup>40</sup> Although the Florida Board of Governors is responsible for establishing a personnel system for all state universities, the Department of Management Services retains control over the state group insurance and retirement plans established in ss. 110.123, 110.1232, 110.1234, 110.1238, and 110.161, and in chapters 121, 122, and 238. Section 1001.705(2)(k), F.S.

<sup>41</sup> Art. IX, s. 1(a) and 7(d), Fla. Const.; ss. 1001.705 and 1001.706, F.S.

<sup>42</sup> Section 1001.705(3), F.S.

procurement, and contracting; insurance; audits; maintenance and construction of facilities; property; bond financing; leasing; and information reporting.

- Maintaining the actuarial and fiscal soundness of centrally administered state systems by requiring SUS institutions to continue to participate in programs such as the Florida Retirement System, state group health insurance programs, and the state casualty insurance program.
- Establishing and regulating the use of state powers and protections, including, but not limited to, eminent domain, certified law enforcement, and sovereign immunity.
- Establishing policies relating to the health, safety, and welfare of students, employees, and the public while present on the campuses of SUS institutions.

### *State University System Governance Agreement*

In 2007, a group of citizens filed a lawsuit against the Legislature that sought to clarify the scope of the BOG's constitutional authority and identify the entity that has the authority to set SUS tuition and fees. Subsequently, this lawsuit was joined by the BOG.

On March 24, 2010, the Chair of the BOG, the Chancellor of the SUS, legislative leaders and the Governor signed a SUS Governance Agreement acknowledging their shared constitutional authority for the state universities as set forth in the Constitution of the State of Florida. The components of the SUS Governance Agreement include master planning and coordination of Florida's higher education systems; strategic planning; university governance; financial aid programs; the Administrative Procedures Act and BOG regulations; tuition; and fees. As a result of the SUS Governance Agreement, the BOG filed a notice of dismissal, with prejudice, of their claims in the 2007 lawsuit filed against the Legislature. The presiding officers agreed to file legislation in accordance with the framework set forth in the governance agreement and to exercise their best efforts to accomplish the final passage of the legislation.<sup>43,44</sup>

### *Audits Relating to Florida College System Institutions and State Universities*

The Auditor General is required to annually conduct financial audits of all state universities and state colleges, and at least every three years, conduct operational audits of the accounts of state universities and state colleges.<sup>45</sup> The Educational Entities and Local Government Audits Division's responsibilities include audits of the Florida Department of Education, district school boards, state universities and colleges, and local governmental units. Audits are made to determine whether financial resources are properly accounted for; whether public officials comply with applicable laws, rules, regulations, and other legal requirements; whether proper and effective internal controls are in place over entity operations; and whether assets are properly safeguarded. Audits are selected based on statutory requirements and risk assessments performed on the various agencies.<sup>46</sup>

Upon conclusion of an audit, the Auditor General discusses the audit with the official whose office is subject to audit and provides a list of the Auditor General's findings which may be included in the audit report. The official, within 30 days is required to submit to the Auditor General his or her written statement of explanation or rebuttal concerning the findings, including corrective action to be taken to preclude a recurrence of all findings.<sup>47</sup>

The Auditor General is required to notify the Joint Legislative Auditing Committee (JLAC) of any audit review which indicates that a state university or state college has failed to take corrective action in

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<sup>43</sup> Florida Legislature, *State University System Governance Agreement* (March 24, 2010); *see also* ch. 2010-78, L.O.F.; staff of the Florida House of Representatives, *Legislative Bill Analysis for HB 7237* (2010).

<sup>44</sup> On January 31, 2013, the Florida Supreme Court issued a ruling in favor of the Legislature, holding that the Florida Constitution does not indicate intent to delegate the Legislature's power to set and appropriate for the expenditure of tuition and fees to the BOG. Thus, the challenged statutes, by which the Legislature exercises control over tuition and fees, are facially constitutional. *See Graham v. Haridopolos*, 2013 WL 362773, at 9, (Fla. Jan. 31, 2013).

<sup>45</sup> Section 11.45(2)(c) and (f), F.S.

<sup>46</sup> <http://www.myflorida.com/audgen/pages/statauth.htm> (*last visited on Feb. 20, 2013*).

<sup>47</sup> Section 11.45(4)(d), F.S.

response to a recommendation which was included in the two preceding audit reports.<sup>48</sup> If the JLAC determines that the state university or FCS institution has failed to take full corrective action for which there is no justifiable reason or has failed to comply with committee requests, the committee may schedule a hearing to determine if the entity should be subject to further state action.<sup>49</sup>

Additionally, if an audit contains a significant finding, the Florida College System institution board of trustees, or the university board of trustees must conduct an audit overview during a public meeting.<sup>50</sup>

### Effect of Proposed Changes

The bill creates s. 1008.322, which grants the Board of Governors the same oversight enforcement authority over state universities that the State Board of Education enjoys over FCS institutions. The bill amends s. 1008.32 to conform language concerning the withholding of discretionary lottery funds to new s. 1008.322.

The bill also provides that, instead of proceeding in accordance with s. 11.40(2), F.S., the JLAC, in the event it determines that a state university or FCS institution fails to take full corrective action, shall refer the matter to the SBE or BOG, as appropriate, to proceed in accordance with their respective oversight enforcement authority.

## **Complete Florida Degree Program**

### Present Situation

In 2012, the Legislature created the Degree Completion Pilot Project (Pilot).<sup>51</sup> The purpose of the Pilot is to recruit, recover, and retain the state's adult learners<sup>52</sup> and assist them in completing an associate or baccalaureate degree that is aligned to high-wage, high-skill workforce needs.

Currently, 26.6% of adults (between the ages of 25-64) in Florida have a baccalaureate degree or higher, compared to 29.8% in the United States.<sup>53</sup> Approximately 2 million Florida adults (23% of the workforce) have earned some college credit; however, many have been unable to continue (or "stopped out") their pursuit of a college degree for various reasons: financial, family, and health are reasons often cited.<sup>54</sup>

Military students and veterans living in Florida represent a significant portion of these students who have "stopped out" of college, with over 56,000 veterans receiving benefits last year for going back to college in Florida and 14,000 active duty students taking courses from Florida public postsecondary education institutions. The Pilot gives priority to adult learners who are veterans or active duty members of the United States Armed Forces.

The Pilot is led by the University of West Florida, in collaboration with other FCS and SUS institutions statewide. However, funding for the pilot, set by the 2012 General Appropriations Act at approximately \$2.5 million, was vetoed by the Governor.<sup>55</sup>

The chancellors of the FCS and SUS are required to submit a report to the chairs of the legislative appropriations committees by December 31, 2013, on the need for a differentiated tuition and fee structure for the development and delivery of distance learning courses.<sup>56</sup>

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<sup>48</sup> Section 11.45(7)(j), F.S.

<sup>49</sup> Section 11.40(2), F.S.

<sup>50</sup> Section 1010.30(2), F.S.

<sup>51</sup> HB 5201, s. 15, ch. 2012-134; s. 1006.735, F.S.

<sup>52</sup> Section 1006.735(1), F.S., defines "adult learner" as a student who has successfully completed college-level coursework but has left an institution in good standing prior to the completion of his or her associate or baccalaureate degree.

<sup>53</sup> U.S. Census Bureau, 2009 American Community Survey Public Use Microdata Sample File.

<sup>54</sup> *Degree Completion Florida Pilot*, Program Guidelines, University of West Florida.

<sup>55</sup> Section 2, ch. 2012-118, line 139A, L.O.F.

<sup>56</sup> Section 1006.735(6), F.S.

On June 30, 2012, the University of West Florida published an Operational Work Plan that details specific degree completion efforts by various postsecondary education institutions<sup>57</sup> and provides an overview of the overall project plan, identifying key tangible outputs of the Pilot.<sup>58</sup>

### Effect of Proposed Changes

The bill provides that the program is no longer a pilot, and renames s. 1006.735 as the “Complete Florida Degree Program.” It clarifies that the University of West Florida, while acting as the lead institution, will collaborate with Florida College System institutions, state universities, and private institutions in implementing the program. Further, as part of its advising and student support system, the program must identify proposed changes to the statewide computer-assisted student advising system made available at the Florida Virtual Campus<sup>59</sup> to assist the adult learner in using the system.

The bill extends the deadline by which the chancellors of the FCS and SUS must submit a report on the need for a differentiated tuition and fee structure for the development and delivery of distance learning courses to December 31, 2014, from December 31, 2013. It also extends the deadline by which the University of West Florida, in collaboration with its partners, must submit to the chairs of the legislative appropriations committees its detailed project plan to September 1, 2013, from June 1, 2012.

## **H. Lee Moffitt Cancer Center and Research Institute**

The H. Lee Moffitt Cancer Center and Research Institute (Moffitt) is a multi-corporate system comprised of a hospital, medical group, research institute, clinical facility, and charitable foundation. Moffitt was founded in 1986 and is located on the University of South Florida campus.<sup>60</sup> Moffitt employs more than 4,200 people and has been designated as a “Comprehensive Cancer Center” by the National Cancer Institute, treating over 30,000 patients and educating more than 1,500 people annually in the area of oncology.

The BOG is required to enter into an agreement for the utilization of the facilities on the campus with a Florida not-for-profit corporation organized solely for the purpose of governance and organization of Moffitt.<sup>61</sup>

### Effect of Proposed Changes

The bill provides that the lease agreement with Moffitt must be rent free so long as Moffitt and its subsidiaries utilize the leased lands and facilities primarily for purposes set forth under the lease agreement as established by law. The bill requires the lease agreement to provide for the review of construction plans and specifications by the University of South Florida for consistency with the university’s Campus Master Plan. The bill adjusts and expands Moffitt’s board to reflect the institute’s growth and maturation and appoints entrepreneurial, business and community leaders to advance Moffitt’s mission.

## **General Education Requirements**

### Present Situation

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<sup>57</sup> Institutions include Florida State College at Jacksonville, St. Petersburg College, University of South Florida, University of West Florida, and the Florida Virtual Campus. The Florida Virtual Campus is a non-degree-conferring entity.

<sup>58</sup> Dr. Pam Northrup, *Operational Work Plan for Degree Completion Pilot Program*, (June 30, 2012). Key tangible outputs of the Pilot include partnership plans among institutions, programs to provide for competency-based instructional and evaluation tools, advising and student support system development, web presence on Florida Virtual Campus with self-serve features, a statewide marketing and advertising plan, an evaluation model, an annual report, and a differentiated costing model supporting a reduced cost of education.

<sup>59</sup> Section 1006.735, F.S.; The Florida Virtual Campus is accessed online at [www.flvc.org](http://www.flvc.org).

<sup>60</sup> Moffitt Cancer Center, *Fact Sheet*, available at <http://www.moffitt.org/the-moffitt-experience/about-us/fact-sheet> (last visited Mar. 1, 2013).

<sup>61</sup> Section 1004.43(1), F.S. The not-for-profit group is the H. Lee Moffitt Cancer and Research Institute. The lease is currently held by the University of South Florida.

To meet regional accreditation requirements, each institution must require in each undergraduate degree program, “the successful completion of a general education component at the collegiate level that (1) is a substantial component of each undergraduate degree, (2) ensures breadth of knowledge, and (3) is based on a coherent rationale.”<sup>62</sup> For baccalaureate degree programs, the general education component constitutes a minimum of thirty semester hours or the equivalent. These credit hours must be drawn from and include at least one course from each of the following areas: humanities/fine arts, social/behavioral sciences, and natural science/mathematics.<sup>63</sup>

The DOE must identify courses that meet general education requirements within the subject areas of communication, mathematics, social sciences, humanities, and natural sciences. Such courses must be identified by their statewide course number using the Statewide Course Numbering System. All public postsecondary educational institutions are required to accept the general education courses.<sup>64</sup>

Under current law, the chairs of the SBE and BOG must jointly appoint faculty committees to identify statewide general education core course options.<sup>65</sup> General education core course options must consist of a maximum of five courses within each of the subject areas of communication, mathematics, social sciences, humanities, and natural sciences. Students entering a college or university in 2014-15 and thereafter must complete at least one identified core course in each subject area as part of the general education requirements. All public postsecondary institutions must offer and accept these courses as meeting general education core course requirements. The remaining general education course requirements must be identified by each institution and reported to the department by their statewide course number.<sup>66</sup>

In 2012, the Legislature reduced the number of required general education course credit hours from 36 to 30, for the purpose of providing institutions with flexibility in developing a solid foundation for students enrolled in their undergraduate programs, beginning with students initially entering a FCS institution or state university in 2014-2015.<sup>67</sup> However, the Southern Association of Colleges and Schools (SACS) Commission on Colleges informed institutions that a reduction in general education credit hours would constitute a substantive change requiring SACS approval. Each FCS institution and state university would be required, for accreditation purposes, to submit to SACS formal notice of the reduction at least six months in advance of implementation in 2013. The reduction to 30 credit hours would also require that every general education course offered by each FCS institution and state university meet certain SACS standards in order for that institution to maintain accreditation.

### Effect of Proposed Changes

The bill reinstates the 36-hour general education credit requirement, restoring current requirements for general education credits and alleviating accreditation issues with SACS. The bill causes no immediate impact to current FCS and state university students because the implementation date for the reduction to 30 hours has not yet passed. The bill maintains statutory provisions related to core course options and extends the implementation date for general education core course requirements to 2015-2016 from 2014-2015. It also provides a process for faculty committees to propose changes to core course options so that the core course options can remain relevant over time. These changes do not negatively impact the primary intent of ch. 2012-195, Laws of Florida.

## **Developmental Education**

### Present Situation

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<sup>62</sup> Southern Association of Colleges and Schools Commission on Colleges, *Foundations for Quality Enhancement*, at 19 (2012), available at <http://sacscoc.org/principles.asp> (last visited Feb. 20, 2013).

<sup>63</sup> Southern Association of Colleges and Schools Commission on Colleges, *Foundations for Quality Enhancement*, at 19 (2012), available at <http://sacscoc.org/principles.asp> (last visited Feb. 20, 2013).

<sup>64</sup> Section 1007.25(3), F.S.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> Sections 1 and 10, ch. 2012-195, L.O.F.

All first-time-in-college (FTIC) degree-seeking students, who have not already demonstrated college readiness, must be evaluated in reading, writing, and math prior to initial registration in a public postsecondary educational institution.<sup>68</sup> The State Board of Education (SBE), pursuant to s. 1008.30(1), allows students to demonstrate college readiness by meeting specified cut scores on one of four approved assessment tools.<sup>69</sup>

Students who are unable to achieve any of the cut scores established by rule<sup>70</sup> must enroll in developmental (also known as remedial or preparatory) instruction courses. Students must earn a “C” or better in the developmental education courses prior to taking college credit courses in subject areas with identified deficiencies.<sup>71</sup>

A degree-seeking student who is required to complete a developmental education course must successfully complete the required developmental education studies by the time the student has accumulated 12 hours of lower-division college credit degree coursework; however, a student may continue enrollment in degree-earning coursework provided the student maintains enrollment in college-preparatory coursework for each subsequent semester until college-preparatory coursework requirements are completed.<sup>72</sup>

The vast majority of students needing developmental education attend FCS institutions. With the exception of Florida Agricultural and Mechanical University, state universities are not permitted to offer developmental education courses but may contract with FCS institutions to provide developmental education services for their students in need of remediation.<sup>73</sup>

Approximately 70% of 2011-2012 FTIC students at a FCS institution were identified as needing developmental education in at least one subject area. Of these students, 91 percent were identified as having deficiencies in math, while 49 percent were not college ready in reading and 44 percent were not college ready in writing.<sup>74</sup> About 54 percent of 2011-2012 FTIC students were deficient in more than one subject area. About 29 percent were deficient in all three subject areas.<sup>75</sup>

The costs associated with providing remediation include several components. As with other higher education programs, the cost of providing college remediation is paid for through student tuition and fees as well as appropriations to the state college. The total cost is calculated based on the number of developmental education courses taken by all students needing remediation and the number of college credit courses taken by remedial students who were unsuccessful at completing all remediation requirements.<sup>76</sup>

For the 2009-2010 school year, FTIC students paid approximately \$73 million in developmental education tuition, while the state appropriated an additional \$81 million, for a total of \$154 million spent on developmental education.<sup>77</sup> For the same year, \$107 million dollars (about 70 percent of the total) was spent on students who were unsuccessful in completing remediation.<sup>78</sup>

### Effect of Proposed Changes

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<sup>68</sup> Rule 6A-10.0315(1), F.A.C.

<sup>69</sup> These tools include the four following tests: the Florida Postsecondary Education Reading Test (PERT), the Accuplacer (the Common Placement Test, or CPT), the SAT-1; or the Enhanced ACT. Rule 6A-10.0315(1), (2), F.A.C.

<sup>70</sup> Rule 6A-10.0315(1), (2), F.A.C.

<sup>71</sup> Rule 6A-10.0315(1), F.A.C.; Office of Program Policy Analysis and Government Accountability, *College Remediation*, update to Report No. 07-31 (Feb. 2013), available at <http://www.oppaga.state.fl.us/Presentations.aspx> (last visited Feb. 25, 2013).

<sup>72</sup> Section 1008.30(4)(a), F.S.

<sup>73</sup> Section 1008.30(4)(b), F.S.; Office of Program Policy Analysis and Government Accountability, *College Remediation*, update to Report No. 07-31, at 5 (Feb. 2013), available at <http://www.oppaga.state.fl.us/Presentations.aspx> (last visited Feb. 25, 2013).

<sup>74</sup> Office of Program Policy Analysis and Government Accountability, *College Remediation*, update to Report No. 07-31, at 10 (Feb. 2013), available at <http://www.oppaga.state.fl.us/Presentations.aspx> (last visited Feb. 25, 2013).

<sup>75</sup> *Id.* at 11.

<sup>76</sup> *Id.* at 22.

<sup>77</sup> *Id.* at 22.

<sup>78</sup> *Id.* at 23.

The bill creates s. 1008.02, F.S., to define several terms related to the provision of developmental education, including “developmental education,” “co-requisite education,” “mastery-based education,” “gateway course,” and “Meta-major.”<sup>79</sup>

The bill also replaces the term “common placement test” with “college placement test.” It clarifies certain rulemaking requirements relating to assessments necessary to perform placement evaluations. The bill specifies that the basic competencies diagnosed by the college placement testing program are to be essential for success in meta-majors.

The bill requires the SBE and BOG to approve a series of meta-majors, academic pathways, and degree maps that identify the gateway courses required for success in each meta-major. Results from the college placement test must be used to diagnose a student’s readiness for his or her chosen meta-major and to provide academic counseling that places the student into credit courses as quickly as possible, with developmental education limited to that content needed for the student’s success in the meta-major. The bill removes the prohibition on concurrent enrollment in developmental education instruction and college credit coursework addressing the same skills. These changes are designed to provide institutions with flexibility to provide innovative approaches to remediation.

The bill requires the SBE develop implement developmental education rules that include:

- Student attributes that may be considered by institutional boards in addition to college placement tests, such as grade point averages, work history, military experience, career interests, degree major declaration, or any combination thereof.
- Recommended placement options for students performing at levels indicating adult education as an appropriate placement for students to develop needed college-entry academic skills.
- Sufficient flexibility for local professional judgment and determinations of appropriate student placement.
- Limits on credit course enrollment for students indicating the need for preparatory assistance in two or more content areas.

Further, local policies and practices set by each FCS institution must outline the attributes considered by the institution for placement determinations, identify instructional options available to students, and describe student costs and financial aid opportunities associated with each instructional option. The bill prescribes specific placement parameters for identified placement and instructional options and specifies certain requirements for policies and practices established by each institution.

## **Powers and Duties of the Board of Governors**

### *Present Situation*

Current law provides that the strategic plan developed by the BOG must:<sup>80</sup>

- Include performance metrics and standards common for all institutions and metrics and standards unique to institutions depending on institutional core missions.
- Consider reports and recommendations of the Higher Education Coordinating Council pursuant to s. 1004.015 and the Articulation Coordinating Committee pursuant to s. 1007.01.
- Include student enrollment and performance data delineated by method of instruction, including, but not limited to, traditional, online, and distance learning instruction.

### *Effect of Proposed Changes*

The bill expands upon the components for the BOG’s strategic plan as set forth under HB 7135.<sup>81</sup> The BOG’s strategic plan must now include criteria for designating certain baccalaureate degree programs

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<sup>79</sup> “Meta-major” means a collection of programs of study or academic discipline groupings that share common foundational skills.

<sup>80</sup> Section 1001.706(5)(b), F.S. These requirements were added to the section in 2012 by s.5, ch. 2012-195, L.O.F.

and master's degree programs at specified universities as high-demand programs of emphasis. To this end, the bill provides that 50 percent of the criteria for designation must be based on the achievement of performance outcome thresholds determined by the BOG. The other 50 percent of the criteria must be based on achievement of performance outcome thresholds specifically linked to:

- Job placement in employment of 36 hours or more per week and average full-time wages of graduates of the degree programs 1 year and 5 years after graduation, based in part on data provided in the economic security report of employment and earning outcomes produced annually pursuant to s. 445.07, F.S., and
- Data-driven gap analyses, conducted by the BOG, of the state's job market demands and the outlook for jobs that require a baccalaureate degree or a higher degree.

For the 2013-2014 and 2014-2015 fiscal years, the bill ties 25 percent of a university's performance funding score, pursuant to s. 1011.905, F.S., to high-demand programs determined by the BOG using gap-analysis data.

## **Bonus and severance pay**

### Present Situation

Current law provides that no extra compensation may be made to any officer, agent, employee, or contractor of the state after service has been rendered or the contract made.<sup>82</sup> This prohibition does not apply to:

- A bonus or severance pay that is paid wholly from nontax revenues and nonstate-appropriated funds, the payment and receipt of which does not otherwise violate part III of chapter 112, and which is paid to an officer, agent, employee, or contractor of a public hospital that is operated by a county or a special district; or
- A clothing and maintenance allowance given to plainclothes deputies pursuant to s. 30.49.<sup>83</sup>

Current law also provides that, on or after July 1, 2011, a unit of government that enters into a contract or employment agreement, or renewal or renegotiation of an existing contract or employment agreement, that contains a provision for severance pay with an officer, agent, employee, or contractor must include the following provisions in the contract:

- A requirement that severance pay provided may not exceed an amount greater than 20 weeks of compensation.
- A prohibition of provision of severance pay when the officer, agent, employee, or contractor has been fired for misconduct, as defined in s. 443.036(29), F.S., by the unit of government.

In 2012, the Legislature amended ss. 1001.01.64(47) and 1001.706(6)(d), F.S., revising severance pay language for colleges and universities to conform to s. 215.425, F.S., subjecting employment contracts for FCS and SUS employees to the same requirements of that section as contracts for other state employees.<sup>84</sup> As such, current law may impede a state university's ability to negotiate the hire of coaches into high-profile athletic programs without resorting to the creation of a direct-support organization.<sup>85</sup>

### Effect of Proposed Changes

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<sup>81</sup> Section 5, ch. 2012-195, L.O.F.

<sup>82</sup> Section 215.425, F.S.

<sup>83</sup> Section 215.425(2), F.S.

<sup>84</sup> Sections 4 and 6, ch. 2012-134, L.O.F.

<sup>85</sup> Blackburn, Schoffel, *FSU Trustees approve new DSO to pay coaches*, Florida Today, Dec. 12, 2012.

The bill expands the exception for bonus or severance pay paid wholly from nontax revenues and nonstate-appropriated funds to officers, agents, employees, and contractors of state universities.<sup>86</sup>

## Florida College System tuition and fees

### Present Situation

Section 1009.23, F.S. provides for the assessment of tuition and fees to students enrolled in the FCS. Florida College System institution boards of trustees establish the rate of tuition and out-of-state fees for their respective institutions. The rate established by the board of trustees may vary by up to 15 percent above or 10 percent below the combined total of the standard tuition and fees set by law.<sup>87</sup> As of July 1, 2011, resident tuition is set at \$68.56 per credit hour for advanced and professional, postsecondary vocational, college preparatory, and educator preparation institute programs. The out-of-state fee for these programs is set at \$205.82 per credit hour.<sup>88</sup>

Tuition and out-of-state fees for upper-division courses must reflect the fact that FCS institutions have a less expensive cost structure than that of state universities.<sup>89</sup> As of July 1, 2011, tuition for baccalaureate degree programs is set at \$87.42 per credit hour for students who qualify as residents for tuition purposes.<sup>90</sup> The sum of tuition and the out-of-state fee for students who are nonresidents for tuition purposes may not exceed 85 percent of the sum of the tuition and out-of-state fee set at the state university nearest the FCS institution.<sup>91</sup> Further, the sum of nonresident student tuition and fees must be sufficient to defray the full cost of each program.<sup>92</sup> However, for upper-division courses, such as those necessary to complete a baccalaureate degree, tuition and fees may not be varied by individual FCS institution boards of trustees.<sup>93</sup> Florida College System boards of trustees are authorized to establish a number of fees separate from tuition and out-of-state fees.<sup>94</sup>

On November 26, 2012, Florida Governor Rick Scott issued a challenge to the FCS institutions to develop baccalaureate degree programs that would cost students no more than a total of \$10,000.<sup>95</sup> By January 28, 2013, all 23 Florida College System institutions currently offering baccalaureate degree programs had announced their support for the challenge.<sup>96</sup>

### Effect of Proposed Changes

The bill authorizes individual FCS institution boards of trustees to establish resident tuition and fees for a baccalaureate degree program at an amount below the combined rate of tuition and fees, as approved by the SBE, set by law or by the General Appropriations Act. This would allow FCS institutions flexibility to develop and offer baccalaureate degree programs within the \$10,000 limit set by the Governor's challenge.

## Adult Education Fees

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<sup>86</sup> This exception is currently enjoyed only by officers, agents, employees, or contractors of public hospitals. Section 215.425(2)(a), F.S.

<sup>87</sup> Section 1009.23(4), F.S.

<sup>88</sup> Section 1009.23(3)(a), F.S.

<sup>89</sup> Section 1009.23(2)(b), F.S.

<sup>90</sup> Section 1009.23(3)(b), F.S.

<sup>91</sup> *Id.*

<sup>92</sup> Section 1009.23(5), F.S.

<sup>93</sup> Section 1009.23(2)(b), F.S. A board of trustees for an institution that has a service area that borders another state may implement a plan for a differential out-of-state fee. Section 1009.23(6), F.S.

<sup>94</sup> Section 1009.23(7), (8), (10), (11), and (12), F.S. Santa Fe College may establish a transportation access fee pursuant to s. 1009.23(18), F.S.

<sup>95</sup> Newsletter, The Florida College System, *2012 Year in Review*, (Dec. 2012), available at <http://www.fldoe.org/fcs/newsletters/December2012.htm> (last visited Feb. 26, 2013).

<sup>96</sup> Press release, Governor's Press Office, *Gov. Scott Announces All 23 Florida State Colleges with Baccalaureate Degrees Have Accepted \$10k Degree Challenge*, January 28, 2013, available at [http://www.fldoe.org/news/2013/2013\\_01\\_28.asp](http://www.fldoe.org/news/2013/2013_01_28.asp) (last visited Feb. 26, 2013).

### Present Situation

The 2011 Legislature repealed the exemption from payment of tuition and fees for students enrolled in adult basic, adult secondary, and career-preparatory instruction set forth in s. 1009.25(1), F.S.<sup>97</sup> However, an obsolete reference to s. 1009.25, F.S., relating to the fee exemption for students who enter a Florida public school at the 11th or 12th grade from out-of-state or from a foreign country remains in Florida Statutes.<sup>98</sup>

Current law differentiates tuition rates for resident (\$2.22 per contact hour, \$45 per half year, or \$30 per term, depending on the program) and nonresident students (\$6.66 per contact hour, \$135 per half year, or \$90 per term) in adult general education and career-preparatory education programs.<sup>99</sup> The framework provided under s. 1009.21, F.S. is used to determine a student's residency for tuition purposes.<sup>100</sup>

### Effect of Proposed Changes

The bill repeals the tuition and fees exemption for out-of-state and out-of-country transfer students attending adult basic, adult secondary, or career-preparatory instruction. This conforms the statute with s. 1009.25(1), F.S., thereby requiring all adult education students to pay fees.

The bill also establishes a separate, specific framework institutions must use to determine the residency of applicants for enrollment in adult education courses and repeals reference to the framework set forth under s. 1009.21, F.S. The submission of any two of the following documents may be determinative of residency:

- A declaration of domicile in Florida.
- Proof that the applicant's dependent children are registered for school in Florida.
- Proof that the applicant is employed in Florida.
- A Florida voter's registration card or official correspondence from the supervisor of elections confirming voter registration in Florida.
- A valid Florida driver's license.
- A valid State of Florida identification card.
- A Florida vehicle registration.
- Proof that the address listed on the most recent federal income tax return filed by the applicant is in Florida.
- Proof that the applicant's bank statements and checking accounts are registered at a Florida address.
- Proof of current payment for utilities at the property for which permanent residency is being claimed.
- A current lease agreement for property located in Florida.

## **Adult General Education**

### Present Situation

Adult general education is defined as "comprehensive instructional programs designed to improve the employability of the state's workforce through adult basic education (ABE), adult secondary education (ASE), English for Speakers of Other Languages (ESOL), vocational-preparatory instruction, and instruction for adults with disabilities."<sup>101</sup>

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<sup>97</sup> Section 11, ch. 2011-63, F.S. (SB 2150).

<sup>98</sup> Section 1003.433(2)(c), F.S.

<sup>99</sup> Section 1009.22(3)(c), F.S.

<sup>100</sup> Section 1009.22(3)(a), F.S.

<sup>101</sup> Section 1004.02(3), F.S.

Each district school board and Florida College System institution is encouraged to provide educational services to enable adults to acquire a high school diploma or high school equivalency diploma and basic and functional literacy so that such adults become more employable, productive, and self-sufficient citizens. In order for adults to acquire the specified skills, the adult education program must provide academic services<sup>102</sup> to students enrolled in the program in the following order of priority:

- (a) Students who demonstrate skills at less than a fifth grade level.
- (b) Students who demonstrate skills at the fifth grade level or higher, but below the ninth grade level.
- (c) Students who are earning credit required for a high school diploma or who are preparing for the high school equivalency exam.
- (d) Students who have earned high school diploma and require specific improvement.
- (e) Students who enroll in lifelong learning courses.
- (f) Students who enroll in courses related to the recreational and leisurely pursuits.<sup>103</sup>

The Department of Education (DOE) is required to develop program standards and industry-driven benchmarks for career, adult, and community general education programs. These standards must be updated every three years. The standards must include career, academic, and workforce skills; viability of distance learning for instruction; and work/learn cycles that are responsive to business and industry.<sup>104</sup> The State Board of Education has adopted standards for successful completion of the following adult general education programs: ABE, Adult High School (formerly called General Education Promotion), high school equivalency, ESOL, Applied Academics for Adult Education (formerly called Vocational Preparatory Instruction), and Adult General Education for Adults with Disabilities. Based on these standards, DOE has developed a curriculum framework for each of the specified adult general education programs.<sup>105</sup>

Funds for adult general education programs are included in the funds appropriated for workforce education programs.<sup>106</sup> These funds are provided in the General Appropriations Act.<sup>107</sup>

State funds are provided for the following adult general education programs: ABE, ASE, ESOL, vocational-preparatory instruction, and instruction for adults with disabilities. State funds are not provided for instruction in lifelong learning courses.<sup>108</sup> The cost of instruction in courses related to recreational and leisure pursuits and courses is supported by fees from students who enroll in those courses.<sup>109</sup>

Currently, K-12 students who are co-enrolled in an adult education and K-12 education program are reported for funding in the adult education program under certain circumstances. This reporting authority, granted to the provider of the adult education program, is set to expire after the 2012-2013 fiscal year. The students may be reported for funding for up to two core curricular courses for credit recovery or dropout prevention. The courses provide high school credits toward a standard high school

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<sup>102</sup> Academic services for adult general education program encompass all instruction specified in the statewide curriculum framework for each type of program, academic testing for progress [e.g., Test for Adult Basic Education (TABE) and General Assessment of Instructional Needs (GAIN)], and other career exploration and workforce readiness activities. Telephone interview with staff from the Florida Department of Education (Feb. 27, 2012); *see also* Rule 6A-6.014, F.A.C.

<sup>103</sup> Section 1004.93(2), F.S.

<sup>104</sup> Section 1004.92(2)(b)4., F.S.

<sup>105</sup> Telephone interview with staff from the Florida Department of Education (Feb. 27, 2013); *see also* Rule 6A-6.0571, F.A.C.; and Florida Department of Education, *2012-13 Adult Education Curriculum Frameworks* [http://www.fldoe.org/workforce/dwdframe/ad\\_frame.asp](http://www.fldoe.org/workforce/dwdframe/ad_frame.asp) (last visited Feb. 27, 2013—although the 2013-2014 frameworks are published in the cited URL address, they are only draft recommendations as the SBE has yet to review and approve them).

<sup>106</sup> Section 1011.80(1)(a), F.S.

<sup>107</sup> Sections 1 and 2, ch. 2012-118, F.O.F.

<sup>108</sup> Telephone interview with staff from the Florida Department of Education (Feb. 27, 2013); *see also* Staff of the Florida House of Representatives, *Legislative Bill Analysis for HB331* (Feb. 17, 2012); and Section 1011.84(3)(b)3., F.S.

<sup>109</sup> Section 1004.93(2)(f), F.S.; *see also* s. 1011.84(3)(b)3., F.S.

diploma, and only students without a pattern of excessive absenteeism or habitual truancy or a history of disruptive behavior in school may be reported.<sup>110</sup>

### Effect of Proposed Changes

The bill repeals a requirement that the adult general education program provide academic services to students who enroll in lifelong learning courses or activities and to students who enroll in courses related to students' recreational and leisurely pursuits. Lifelong learning courses and courses related to recreational and leisurely pursuits are not included among the "comprehensive instructional programs [under adult general education] designed to improve the employability of the state's workforce."<sup>111</sup> As a result, DOE has not developed standards and curriculum frameworks for such courses.<sup>112</sup> Additionally, lifelong learning courses and courses related to recreational and leisurely pursuits are not supported by state funds. The bill does not, however, prohibit institutions from offering such instruction at full cost to students.

The bill establishes in statute the authority for a FCS institution or school district to report a co-enrolled, K-12 student as enrolled in an adult education program for purposes of funding. This makes permanent the reporting authority previously granted for only the 2011-2012 and 2012-2013 fiscal years. The bill also requires the Department of Education to develop a list of courses to be designated as core curricula courses for the purposes of coenrollment.

## **Career-preparatory Instruction**

### Present Situation

A student who is enrolled in a postsecondary program offered for career education credit of 450 hours or more must complete an entry-level basic skills examination within the first six weeks after admission to the program.<sup>113</sup> The State Board of Education must designate examinations that assess student mastery of basic skills. Any student found to lack the required level of basic skills must be referred to career-preparatory instruction or adult basic education for a structured program of basic skills instruction.<sup>114</sup> A student may not receive a career certificate of completion without first demonstrating the basic skills required in the state curriculum frameworks for the student's program.

Certain students may be exempt from the entry-level examination requirements, including:<sup>115</sup>

- An adult student with a disability;
- A student who possesses a college degree at the associate in applied science level or higher;
- A student who has completed or who is exempt from the college-level communication and computations skills examination pursuant to s. 1008.29 or who is exempt from the college entry level examination;
- A student who has passed a state, national or industry licensure exam; and
- An adult student who is enrolled in an apprenticeship program that is registered with the Department of Education.

### Effect of Proposed Changes

The bill renames "career-preparatory instruction" to "applied academics for adult education instruction" and includes other technical changes to statutory text consistent with the provisions of the bill. It also makes clarifying changes relating to rulemaking by the State Board of Education.

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<sup>110</sup> Section 1011.80, F.S.

<sup>111</sup> Section 1004.02(3), F.S.

<sup>112</sup> Telephone interview with staff from the Florida Department of Education (Feb. 27, 2013).

<sup>113</sup> Section 1004.91(2), F.S.

<sup>114</sup> Section 1004.91(1), F.S.

<sup>115</sup> Section 1004.91(3), F.S.

The bill clarifies the list of students who are exempt from the entry-level examination requirements. It specifies that students who demonstrate readiness for public postsecondary education pursuant to s. 1008.30, F.S. are also exempt, replacing obsolete references to the College-Level Academic Skills Test (CLAST), which was repealed in 2009. A student who passes a state or national industry certification or licensure exam is exempt only if the exam is identified in rule by the SBE and aligned to the career education program in which the student is enrolled.

## **Career Education Programs**

### *Present Situation*

In accordance with statute and rule, the Division of Career and Adult Education reviews and updates career education curriculum frameworks every three years based on input from business and industry.<sup>116</sup> However, some program standards and outcomes, particularly in the Information Technology Cluster, change rapidly.

### *Effect of Proposed Changes*

The bill allows district school boards and Florida College System institution boards of trustees to vary the intended learning outcomes of each career education program up to 10 percent, provided that the career education program does not lead to an occupation that requires state or federal licensure, certification, or registration. The inclusion of a 10 percent variance on the learning outcomes for non-regulated career education programs would provide some flexibility to school districts and college providers to develop curriculum and learning outcomes specific to local employers' needs. This variance would also give education providers the ability to alter specific standards and outcomes.

## **Talent Retention Program**

### *Effect of Proposed Changes*

The bill requires the chancellor of the State University System to cooperate with the Commissioner of Education for the purpose of supporting talent retention programs that encourage middle and high school students who indicate an interest in or aptitude for physics, chemistry, or mathematics to continue their education at a state university that has excellent departments in selected fields. The chancellor and commissioner must work with department chairs of outstanding state university departments to enable them to send letters to students indicating an interest in and aptitude for those subjects. The letters should include, at a minimum, an open invitation for the student to communicate with the department at least annually and to schedule a tour of the department and university campus.

## **Higher Education Coordinating Council**

### *Present Situation*

The Higher Education Coordinating Council (HECC) was created by the Legislature in 2010 to identify unmet needs and to facilitate solutions to disputes regarding the creation of new degree programs and the establishment of new institutes, campuses, or centers.<sup>117</sup> The HECC must act as an advisory board to the Legislature, the SBE and the BOG. Recommendations of the HECC must be consistent with the following guiding principles:

- To achieve within existing resources a seamless academic educational system that fosters an integrated continuum of kindergarten through graduate school education for Florida's students;
- To promote consistent education policy across all educational delivery systems, focusing on students;
- To promote substantially improved articulation across all educational delivery systems;

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<sup>116</sup> Section 1004.92(2)(a), F.S., Rule 6A-6.0571, F.A.C.

<sup>117</sup> Section 1004.015(1), F.S.

- To promote a system that maximizes educational access and allows the opportunity for a high-quality education for all Floridians; and
- To promote a system of coordinated and consistent transfer of credit and data collection for improved accountability purposes between the educational delivery systems.<sup>118</sup>

The HECC is comprised of the following members: the Commissioner of Education; the Chancellor of the State University System of Florida; the Chancellor of the Florida College System; the Executive Director of the Commission for Independent Education; the Executive Director of the Independent Colleges and Universities of Florida; and two members representing the business community, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives, who co-chair the Council.<sup>119</sup> Staff support for the Council is currently provided by the Board of Governors and the Department of Education.<sup>120</sup>

The HECC was required to submit a report on December 31, 2011, that specifically included recommendations for legislative consideration during the 2012 Legislative Session.<sup>121</sup> In 2012, the Legislature amended the HECC reporting provisions, requiring the HECC to continue to annually report, by December 31, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the BOG, and the SBE recommendations relating to the:

- Primary core mission of public and nonpublic postsecondary education institutions;
- Performance outputs and outcomes designed to meet annual and long-term state goals;
- Florida's articulation policies and practices; and
- Workforce development education, specifically recommending improvements relating to the consistency of workforce education data collected and reported by FCS institutions and school districts.<sup>122</sup>

### Effect of Proposed Changes

The bill changes the membership of the HECC to include greater representation of decision-making bodies within the postsecondary and business arenas. The restructured HECC includes the following members:

- One member of the Board of Governors, appointed by the chair.
- One member of the State Board of Education, appointed by the chair.
- The chancellor of the Florida College System.
- The chancellor of the State University System.
- The president of Enterprise Florida, Inc. or a designated member of the Stakeholder Council appointed by the president.
- The executive director of the Florida Association of Postsecondary Schools and Colleges.
- The president of the Independent Colleges and Universities of Florida.
- The President of Workforce Florida, Inc. or his or her designee.
- Three representatives of the business community: one appointed by the President of the Senate, one appointed by the Speaker of the House of Representatives, and one appointed by the Governor.

Appointed members serve on the HECC for two years. A single chair must be annually elected by the membership by a majority vote.

The HECC must facilitate solutions to data issues identified by the Articulation Coordinating Committee and promote the adoption of a common set of data elements by the members of the council. The bill provides that it is a principle of the HECC, in making recommendations to the Legislature, the SBE, and

<sup>118</sup> Section 1004.015(3), F.S.

<sup>119</sup> Section 1004.015(2), F.S.

<sup>120</sup> Section 1004.015(5), F.S.

<sup>121</sup> Section 1004.015(5), F.S.

<sup>122</sup> Section 7, ch. 2012-195, L.O.F.

the BOG to promote adoption, by the council, of a common set of data elements identified by the National Center for Education Statistics to support the effective exchange of data among the states.

The bill also establishes the Office of K-20 Articulation within the Department of Education for the purpose of providing permanent staffing for the HECC and the Articulation Coordinating Committee.

## **Articulation Coordinating Committee**

### *Present Situation*

The Articulation Coordinating Committee (ACC) serves as an advisory board to the SBE and the BOG on postsecondary transition issues. The committee provides a unique K-20 forum for cross-sector collaboration that informs the policy decisions of the SBE and the BOG regarding the implementation of the statewide articulation agreement. The ACC reports to the Commissioner of Education and is comprised of the following members: two members each representing the State University System (SUS), the Florida College System (FCS), public career and technical education, public K-12 education, and non-public education, and one member representing students.<sup>123</sup>

The ACC must:<sup>124</sup>

- Monitor the alignment between the exit and admission requirements of education systems and make recommendations for improving transfer of students from one education system to another education system.
- Propose guidelines for interinstitutional articulation agreements between and among public schools, career and technical education centers, FCS institutions, state universities, and nonpublic postsecondary institutions.
- Annually recommend dual enrollment course and high school subject area equivalencies for approval by the SBE and the BOG.
- Annually review the statewide articulation agreement<sup>125</sup> and make recommendations for revision.
- Annually review the statewide course numbering system (SCNS), the levels of courses, and the application of transfer credit requirements among public and non-public institutions participating in the SCNS and identify instances of student transfer and admissions difficulties.
- Annually publish a list of courses that meet common general education and common degree program prerequisite requirements at public postsecondary institutions.<sup>126</sup>
- Examine statewide data regarding articulation to identify issues and make recommendations to improve articulation throughout the K-20 education system.
- Recommend roles and responsibilities of public education entities in interfacing with the statewide computer-assisted student advising component of the Florida Virtual Campus.<sup>127</sup>

### *Effect of Proposed Changes*

The bill requires the ACC to make recommendations regarding access, quality, and reporting of data maintained by the K-20 data warehouse and facilitate timely reporting of data by all educational delivery systems. The ACC must also facilitate the timely reporting of data by the K-20 data warehouse to organizations and authorized representatives and identify data issues including, but not limited to, data quality and accessibility.

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<sup>123</sup> Section 1007.01(2)-(3), F.S. The ACC was initially codified at 229.551, F.S., but was repealed January 7, 2003, by s. 3(7), ch. 2000-321. In 2011, the ACC was again codified in law by amending s. 1007.01, F.S. Section 7, ch. 2011-177, L.O.F.

<sup>124</sup> Section 1007.01(3), F.S.

<sup>125</sup> Statewide articulation agreement is established pursuant to s. 1007.23, F.S.

<sup>126</sup> See s. 1007.25, F.S.

<sup>127</sup> The Legislature established the Florida Virtual Campus in 2012. Section 14, ch. 2012-134, L.O.F.

The bill clarifies that the ACC membership includes two members representing K-12 education, whether public or private, and two members representing nonpublic postsecondary education. It also provides that the Office of K-20 Articulation will provide administrative support for the ACC.

## **Disclosure of financial information by Bright Futures, FRAG, and ABLE applicants**

### Present Situation

To be eligible to receive funds under the Florida Bright Futures Scholarship Program,<sup>128</sup> the William L. Boyd, IV, Florida resident access grant,<sup>129</sup> and the Access to Better Learning and Education Grant Program, students must submit a complete and error-free Free Application for Federal Student Aid (FAFSA).<sup>130</sup> These requirements were adopted by the Legislature in 2011 to gather more comprehensive data on students who are provided state tuition assistance funds.<sup>131</sup>

### Effect of Proposed Changes

The bill repeals the requirements that students submit a completed and error-free FAFSA as a precondition to receipt of Florida Bright Futures Scholarship Program, William L. Boyd, IV, Florida resident access grant, and Access to Better Learning and Education Grant Program funds, which ends the state's collection of financial data relating to recipients of these tuition assistance programs.

## **Funds for operation of workforce education programs**

### Present Situation

Workforce education and workforce education programs include adult and general education programs, career certificate programs, applied technology diploma programs, continuing workforce education courses, degree career education programs, and apprenticeship and preapprenticeship programs.<sup>132</sup> Workforce education programs may be conducted by a FCS institution or a school district.<sup>133</sup>

Current funding for workforce education programs is based on cost categories, performance output measures, and performance outcome measures.<sup>134</sup> Performance funding was established by the Legislature to reward program outputs and outcomes in workforce education programs and to encourage completion of programs. Funds are appropriated each year in the General Appropriations Act and are based on prior-year outcomes for program completions and learning gains, special student populations served, and job placements upon student completions of adult general education programs and career-technical education program. Thirty-six districts currently receive funding for career and technical education programs and 57 districts receive funds for adult general education programs.<sup>135</sup> District performance funds are provided based on performance in six areas, which include: GED, Adult High School, Adult Basic Education, English Literacy, Career Certificates and Apprenticeship programs.<sup>136</sup> In FY 2012-13, \$4,986,825 was appropriated in the General Appropriations Act for performance incentive funding.<sup>137</sup>

### Effect of Proposed Changes

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<sup>128</sup> Section 1009.531(7), F.S.

<sup>129</sup> Section 1009.89(4)(c), F.S.

<sup>130</sup> Section 1009.891(4)(c), F.S.

<sup>131</sup> Staff of the Florida House of Representatives, *Legislative Bill Analysis for HB 5201* (2011).

<sup>132</sup> Section 1011.80(1), F.S.

<sup>133</sup> Section 1011.80(2), F.S. College credit in an associate in applied science or an associate in science degree may awarded only by a FCS institution.

<sup>134</sup> Section 1011.80(4), F.S.

<sup>135</sup> Florida Department of Education, *2013-14 Legislative Budget Request*, at 212 (Oct. 9, 2012), available at [www.fldoe.org/board/meetings/2012\\_10\\_09/lbr.pdf](http://www.fldoe.org/board/meetings/2012_10_09/lbr.pdf) (last visited Feb. 28, 2013).

<sup>136</sup> Section 1011.80(4)(b), F.S.

<sup>137</sup> Section 2, ch. 2012-118, L.O.F.

To increase students' technical skills in high demand, high wage occupational areas, the bill provides additional performance-incentive funding, subject to funds allocated in the General Appropriations Act, to districts and FCS institutions for students earning an approved industry certification in an area of high demand. Further, districts can earn additional performance funds based on performance outcomes for industry certifications in occupational areas as specified in the General Appropriations Act, with priority given to occupational areas emphasized in state, national, or corporate grants provided to Florida Educational institutions.

## **Florida College System Program Fund**

### *Present Situation*

Currently, each FCS institution's operational funding is provided in the General Appropriations Act.<sup>138</sup> When new funding is available for increased operational support for all 28 colleges, one of the historical distribution methodologies utilized by the Legislature to distribute these funds has been a funding allocation model developed and approved by the FCS Council of Presidents. Seven cost areas are included in this model to identify the ideal level of operational funding needed for each college. These cost areas include: Direct Instruction, Physical Plant Operations and Maintenance, Academic Support, Institutional Support, Student Services, Libraries, and a District Cost Differential.<sup>139</sup>

Over the last several years, the Legislature has appropriated funds to individual colleges for specific purposes in support of legislative priorities, but no increased operational costs have been appropriated for distribution to all colleges; therefore, the funding allocation model has not been used to allocate funds. In the past, funds have also been appropriated to the FCS specifically for performance; however, the funding allocation model does not include a performance component. Colleges do track performance data such as occupational completion points, program completions and job placements.

### *Effect of Proposed Changes*

The bill provides for performance funding to FCS institutions based on industry certification offerings. Funding is contingent upon specific appropriation in the General Appropriations Act and is based on occupational areas for which there is an industry certification as identified in rule by the SBE. The bill gives priority to occupational areas emphasized in state, national, and corporate grants provided to Florida educational institutions. Subject to funds allocated in the General Appropriations Act, each FCS institution will receive \$1,000 for each industry certification earned by a student. The bill caps the total appropriations for the purpose of performance funding at \$15 million annually, and provides that funds will be prorated if the calculated total award is insufficiently funded.

## **Performance funding for state universities**

### *Present Situation*

Current law requires an accountability process be implemented that provides for the systematic, ongoing evaluation of quality and effectiveness of state universities by the BOG. This accountability process must monitor performance at the system level in each of the major areas of instruction, research, and public service, while recognizing the differing mission of each of the state universities. The accountability process provides for the adoption of system-wide performance standards and performance goals for each standard identified through a collaborative effort involving state universities, the BOG, the Legislature, and the Governor's office. These standards and goals must be consistent with and maintain congruity with the performance based budgeting process. This process requires that university accountability reports reflect measures defined through performance based budgeting. The performance based budgeting measures must also reflect the elements of teaching, research, and service inherent in the mission of the state universities.<sup>140</sup>

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<sup>138</sup> Chapter 2012-118, L.O.F., specific appropriations 10 and 108.

<sup>139</sup> Florida Department of Education, *2013-14 Legislative Budget Request*, at 227 (Oct. 9, 2012), available at [www.fldoe.org/board/meetings/2012\\_10\\_09/lbr.pdf](http://www.fldoe.org/board/meetings/2012_10_09/lbr.pdf) (last visited Feb. 28, 2013)

<sup>140</sup> Section 1008.46, F.S.

The BOG must submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, providing information on the SUS's performance on quality and effectiveness indicators in the areas of instruction, research, and public service.<sup>141</sup> Each board of trustees must submit to the BOG a university annual report that describes progress regarding articulated goals and summarizes other key data, with accompanying narrative to highlight or explain information. Each university's annual report must include, at a minimum, the following:

- An executive summary that captures key performance data required by the BOG;
- The university's mission and vision;
- Summary information on budgets, enrollments, and other core resources;
- Reports on undergraduate education, graduate education, and research and economic development, as appropriate to the university's mission, including narrative to provide context and perspective on key goals, data trends, and university performance on metrics specified by the BOG; and
- Any other specific performance information requested by the BOG in advance of the submission deadline.<sup>142</sup>

In 2012, the Legislature passed HB 7135,<sup>143</sup> which requires the BOG to include as part of its strategic plan each university's contribution to overall system goals and objectives. The strategic plan must include performance metrics and standards common for all institutions, and metrics and standards unique to institutions depending on institutional core missions, including, but not limited to:

- Student admission requirements
- Graduation
- Retention
- Employment
- Continuing education
- Licensure passage
- Excess hours
- Student loan burden and default rates
- Faculty awards
- Total research funding
- Patents
- Licenses and royalties
- Intellectual property
- Start-up companies
- Annual giving
- Endowments
- Well-known, highly-respected national rankings for institutional and program achievements.<sup>144</sup>

The BOG strategic plan must consider reports and recommendations of the HECC and the ACC and include student enrollment and performance data, delineated by traditional, online, or distance learning instruction.<sup>145</sup>

House Bill 7135 provides for a set-aside of up to \$15 million for the BOG to disburse to state universities based on certain STEM-based<sup>146</sup> performance metrics. The BOG must review and rank each state university that applies for performance funding based on the following formula:<sup>147</sup>

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<sup>141</sup> Section 1008.46(1), F.S.

<sup>142</sup> Florida Board of Governors Regulation 2.002; *see also* s. 1008.46, F.S.

<sup>143</sup> Chapter 2012-195, L.O.F.

<sup>144</sup> Section 1001.706(5)(b)1., F.S.

<sup>145</sup> Section 1001.706(5)(b), F.S.

<sup>146</sup> STEM is an acronym for the instructional discipline areas of science, technology, engineering, and mathematics.

<sup>147</sup> Section 1011.905(1), F.S.

- Twenty-five percent of a state university's score must be based on the percentage of employed graduates who have earned degrees in the following programs:
  - Computer and information science;
  - Computer engineering;
  - Information system technology; and
  - Management information systems.
- Twenty-five percent of a state university's score must be based on the percentage of graduates who earned baccalaureate degrees in computer and information science, computer engineering, information systems technology, and management information systems and who earn industry certifications in a related field from a FCS institution or state university before beginning a baccalaureate degree program.
- Fifty percent of a state university's score must be based on factors determined by the BOG which relate to increasing the probability that graduates who have earned degrees in computer and information science, computer engineering, information systems technology, and management information systems will be employed in high-skill, high-wage, and high-demand jobs.

The amount awarded to a state university must be a minimum of 25 percent of the total amount appropriated.<sup>148</sup> The Legislature appropriated \$15 million for this purpose in the 2012 state budget.<sup>149</sup>

In its first year of implementation, the BOG ranked the eight universities that applied for performance funding as follows:

1. Florida International University.
2. University of Central Florida
3. University of West Florida
4. University of Florida
5. University of South Florida
6. Florida A&M University
7. Florida State University
8. Florida Atlantic University.

The BOG split the \$15 million set-aside among the four top-ranked universities under the formula in equal parts, with each university receiving \$3.75 million.<sup>150</sup>

### Effect of Proposed Changes

The bill extends the period for which the BOG must annually review and rank each state university that applies for performance funding from 2013-2014 to 2016-2017. The bill adjusts the ranking formula for certain years during this period to reflect various priorities of the Legislature for university performance. It also provides that the 2012-2013 award recipients will receive the same award for the 2013-2014 fiscal year.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 11.45, F.S.; revising actions to be taken by the Legislative Auditing Committee relating to audits of state universities and Florida College System institutions.

Section 2. Amends s. 20.15, F.S.; establishing the Office of K-20 Articulation in the Department of Education.

Section 3. Amending s. 215.425, F.S.; excluding a state university from certain provisions prohibiting extra compensation.

<sup>148</sup> *Id.*

<sup>149</sup> Section 2, ch. 2012-118, L.O.F.

<sup>150</sup> State University System of Florida, Board of Governors, News Clips 02/13/2013, *Blog: Four universities split \$15 million bonus tied to STEM goals*, [http://www.flbog.edu/pressroom/newsclips\\_detail.php?id=25364](http://www.flbog.edu/pressroom/newsclips_detail.php?id=25364) (last visited Feb. 28, 2013).

Section 4. Amends s. 250.10, F.S.; conforming provisions to changes made in the bill.

Section 5. Amends s. 1001.02, F.S.; conforming provisions to changes made in the bill.

Section 6. Amends s. 1001.03, F.S.; conforming provisions to changes made in the bill.

Section 7. Amends s. 1001.64, F.S.; conforming provisions to changes made in the bill.

Section 8. Amends s. 1001.706, F.S.; requiring the strategic plan of the Board of Governors to include criteria for designating high-demand degree programs.

Section 9. Creates s. 1001.7065, F.S.; creating the preeminent state research universities program; establishing a collaborative partnership between the Board of Governors and the Legislature to elevate the academic and research preeminence of the highest-performing state research universities; establishing academic and research excellence standards for universities to be designated a preeminent state research university; providing for a preeminent state research university to establish an online arm of the university; providing duties and responsibilities of a board of directors, the university president and board of trustees, and the Board of Governors to provide online degree programs; providing for a preeminent state research university to implement certain enhancements; authorizing a preeminent state research university to establish special course requirements; providing for preeminent state research university flexibility; encouraging the Board of Governors to promote additional programs of excellence.

Section 10. Amends s. 1003.433, F.S.; clarifying high school graduation requirements; deleting a fee exemption for certain students in an adult general education program.

Section 11. Amends s. 1004.015, F.S.; revising purpose, membership, and guiding principles of the Higher Education Coordinating Council.

Section 12. Amends s. 1004.02, F.S.; revising certain definitions relating to adult general education and instruction to attain academic and workforce readiness skills.

Section 13. Creates s. 1004.082, F.S.; providing for support for talent retention programs for certain middle school and high school students.

Section 14. Amends s. 1004.43, F.S.; relating to the H. Lee Moffitt Cancer Center and Research Institute; requiring the Board of Trustees of the University of South Florida to enter into a lease agreement with the not-for-profit corporation operating the institute for the utilization of lands and facilities; revising membership of the corporation's board of Governors; providing for an external advisory board of scientific advisers to the institute's chief executive officer.

Section 15. Amends s. 1004.91, F.S.; revising requirements for basic skills instruction for career education programs.

Section 16. Amends s. 1004.92, F.S.; allowing district school boards and FCS institution boards of trustees to vary intended learning outcomes of each career education program up to 10 percent under certain conditions.

Section 17. Amends s. 1004.93, F.S.; revising provisions relating to adult education program priorities; conforming provisions to changes made in the bill.

Section 18. Amends s. 1006.735, F.S.; establishing the Complete Florida Degree Program and providing requirements for its implementation.

Section 19. Amends s. 1007.01, F.S.; revising duties of the Articulation Coordinating Committee relating to collecting and reporting statewide education data; providing for administrative support to be provided by Office of K-20 Articulation.

Section 20. Amends s. 1007.21, F.S.; conforming provisions to changes made in the bill.

Section 21. Amends s. 1007.23, F.S.; confirming provisions to changes made in the bill.

Section 22. Amends s. 1007.25, F.S.; authorizing additional postsecondary general education core course options; increasing the required number of semester hours of general education coursework.

Section 23. Amends s. 1007.263, F.S.; conforming provisions to changes made in the bill.

Section 24. Amends s. 1007.271, F.S.; conforming provisions to changes made in the bill.

Section 25. Creates s. 1008.02, F.S.; providing definitions for purposes of ch. 1008, F.S., relating to assessment and accountability for the K-20 education system.

Section 26. Amends s. 1008.30, F.S.; providing for a college placement test to assess basic computation and communication skills of students who intend to enter a public postsecondary education degree program; requiring the approval of meta-majors, academic pathways, and degree maps related to student progression; requiring the State Board of Education to establish test scores to demonstrate college readiness; requiring the state board to adopt rules to implement developmental education; providing requirements for Florida College System institution policies and practices relating to student placement, instructional options, and financial aid.

Section 27. Amends s. 1008.32, F.S.; revising provisions relating to State Board of Education oversight enforcement authority.

Section 28. Creates s. 1008.322, F.S.; providing that the Board of Governors shall oversee the performance of state university boards of trustees in the enforcement of laws, rules, and regulations; providing responsibilities for compliance by state universities; authorizing specified actions by the Board of Governors for noncompliance.

Section 29. Amends s. 1008.34, F.S.; conforming provisions to changes made in the bill.

Section 30. Amends s. 1008.37, F.S.; conforming provisions to changes made in the bill.

Section 31. Amends s. 1009.22, F.S.; providing requirements relating to fees for students in adult education programs; establishing framework for determination of residency for tuition purposes.

Section 32. Amends s. 1009.23, F.S.; revising provisions relating to tuition and fees for Florida College System institution baccalaureate degree programs.

Section 33. Amends s. 1009.25, F.S.; conforming provisions to changes made in the bill.

Section 34. Amends s. 1009.28, F.S.; conforming provisions to changes made in the bill.

Section 35. Amends s. 1009.40, F.S.; conforming provisions to changes made in the bill.

Section 36. Amends s. 1009.53, F.S.; conforming provisions to changes made in the bill.

Section 37. Amends s. 1009.531, F.S.; deleting an eligibility requirement for a Florida Bright Futures Scholarship Program award

Section 38. Amends s. 1009.73, F.S.; conforming provisions to changes made in the bill.

Section 39. Amends s. 1009.89, F.S.; deleting an eligibility requirement for a William L. Boyd, IV, Florida resident access grant.

Section 40. Amends s. 1009.891, F.S.; deleting an eligibility requirement for an Access to Better Learning and Education grant

Section 41. Amends s. 1011.80, F.S.; revising provisions relating to the basis for funding workforce education programs; providing requirements for performance funding for industry certifications for school district workforce education programs; revising provisions relating to funding for coenrolled students.

Section 42. Amends s. 1011.81, F.S.; providing requirements for performance funding for industry certifications for Florida College System institutions.

Section 43. Amends s. 1011.84, F.S.; conforming provisions to changes made in the bill.

Section 44. Amends s. 1011.905, F.S.; specifying the use for performance funding for state universities.

Section 45. Provides effective dates.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

Expected expenditures associated with this bill are Indeterminate at this time.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill would allow certain Florida residents to establish residency for tuition purposes with respect to adult education courses, thereby decreasing the cost of tuition for those individuals. The bill also expands access to higher education through the online arm's reduced tuition structure and by allowing FCS institutions the flexibility necessary to meet the Governor's \$10,000 challenge.

### **D. FISCAL COMMENTS:**

The bill contains provisions relating to tuition; the establishment of an online arm at a preeminent state university; performance funding for workforce education programs, FCS institutions, and state universities; and the Complete Florida Degree Program Project. The impact of these provisions is indeterminate at this time.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants authority to the State Board of Education and Board of Governors to adopt rules and regulations, respectively, implementing the provisions contained therein.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 6, 2013, the Higher Education & Workforce Subcommittee adopted one amendment and reported the bill favorably. The amendment makes changes to Section 18 of the PCB, relating to the Complete Florida Degree Program under s. 1006.735, F.S.

Specifically, the amendment:

- Provides flexibility in the implementation date to allow for potential delays associated with the SACS accreditation process;
- Adds gap analysis information provided by the Board of Governors to the information that must be considered by the program when identifying workforce needs; and
- Requires the program to share information related to program planning and effectiveness with the Board of Governors, the State Board of Education, and the chancellors of the State University System and the Florida College System.